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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,324	12/30/2003	Fumitaka Ishiguro	251312-1010	8018
24504	7590	07/19/2006		EXAMINER
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP				THANH, QUANG D
100 GALLERIA PARKWAY, NW				
STE 1750			ART UNIT	PAPER NUMBER
ATLANTA, GA 30339-5948				3764

DATE MAILED: 07/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/748,324	ISHIGURO ET AL.
Examiner	Art Unit	
Quang D. Thanh	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 22 June 2006.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-19 is/are pending in the application.  
4a) Of the above claim(s) 12-19 is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-11 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date .  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of species I, claims 1-11 in the reply filed on 6/22/2006 is acknowledged. Claims 12-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Hsieh (6,969,361). Hsieh discloses a massage device (fig. 2), comprising: a driving shaft 13 (fig. 2); a driving mechanism 10 (fig. 1); a pair of therapeutic elements 33/34 (fig. 2) rotated by the driving shaft 13, driven by the driving mechanism, for supporting and

massaging feet (fig. 11); and a bottom therapeutic member 50 (fig. 2), disposed between the pair of therapeutic elements 34/34 (fig. 2), supporting an instep of foot (fig. 11); wherein the therapeutic elements 33/34 are formed along the instep of a foot (fig. 11); a protrusion wherein the protrusion is an airbag 35 disposed on a side of the therapeutic elements (fig. 2 and 7); wherein at least two of the therapeutic elements 33/34 are disposed along the longitudinal direction of the foot; wherein the bottom therapeutic member has a roller 20/51, having a protrusion 511/512 (fig. 7) facing the sole of a foot (fig. 11).

5. Claims 1-4 and 8-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Chen (6,599,261). Chen discloses a massage device (fig. 3), comprising: a driving shaft 20; a driving mechanism 10 ; a pair of therapeutic elements 41/42, rotated by the driving shaft, driven by the driving mechanism (fig. 2) , for supporting and massaging feet (fig. 5-6); and a bottom therapeutic member 50, disposed between the pair of therapeutic elements 41/42 supporting an instep of foot (fig. 5); wherein the therapeutic elements 41/42 are formed along the instep of a foot; a protrusion 70 disposed on a side of the therapeutic elements (fig. 2 and 5); wherein at least two of the therapeutic elements 41/42 are disposed along the longitudinal direction of the foot (fig. 5); wherein the bottom therapeutic member 50 has a roller 36, having a protrusion (wheel 51 or 52 having knobs 71) facing the sole of a foot (fig. 5-6).

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tseng '399 discloses a leg massage device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang D. Thanh whose telephone number is (571) 272-4982. The examiner can normally be reached on Monday-Thursday & alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on (571) 272-4887. The Central FAX phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for all communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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